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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,769	11/05/2003	Hans-Ulrich Stauber	P56988	6343

7590 10/17/2007
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EXAMINER

NICHOLSON III, LESLIE AUGUST

ART UNIT	PAPER NUMBER
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3651

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/700,769

Applicant(s)

STAUBER, HANS-ULRICH

Examiner

Leslie A. Nicholson III

Art Unit

3651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 21-27, 29 and 31-43.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Regarding claims 21-23, Applicant argues Muller does not teach or suggest "a conveyor device comprising a revolving conveyor... and the second rests being movably propelled along the conveyor path independently from the collection drum." In response, the Examiner disagrees. Muller clearly discloses these features in at least figure 1 and C4/L33-35, respectively. The claim does not recite structure as to how the second rests are movably propelled independently from the collection drum. What structure allows for the second rests to be movably propelled along the conveyor path independently from the collection drum?

Regarding claims 24,25,30-34,36,37,39,40,42, Applicant argues "the two drum portions 3,4 of Meier are not considered to be detachable" and the prior art does not disclose "a conveyor device... detachable from the conveyor drum... to define a conveyor path with a conveyor direction able to deviate in the transfer region from the axial direction...". In response, the Examiner disagrees. There is nothing that would prevent the drum portions of Meier from detaching. Conveyor 40 of Muller, as taught by Meier, may be one of the subdivisions of the drum 14 of Meier and is fully capable of detaching from drum 14.

Regarding claims 26,35,38,41,43, Applicant argues the bending elements 72 of Mowry "are completely separate from the second rests 13, comprise a separate conveyor, and only interact with the second rests 13 by lifting the object workpieces from the second rests 13 before stapling". In response, the Examiner notes that the term integrate is defined as to combine into one unified system. Mowry discloses, in C7/L26-48, that conveyor 73, which carries bending elements 72, is timed to be in synchronization with the main conveyor, which carries rests 13. The system of the main conveyor, conveyor 73, bending elements 72, and second rests 13 are thus a unified system having a goal of stapling products and are therefore integrated.

Applicant further argues Muller neither discloses nor suggests the use of rails to support and guide the second rests. In response, the Examiner disagrees. The use of rails to guide chains is well known not only in the art but in general, as evidenced by at least USP 4767112, USP 5667212, USP 5992840, USP 4384709, and USP 4605212. In Muller, though separate guide rails for the chains are not expressly disclosed, it is an inherent feature. If there were no rails, chain 72 would sag and would not allow for the operation of adhesive bonding of inserts or stapling of inserts, among other operations. The post-processing stations would have to be adjusted to account for the sag in the chain, and even if they were, would not be able to apply any forces on the product on the chain as it would deflect it downwards and thus improperly post-process the products.